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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,146	01/04/2002	Charles W. Berthoud	C.BERTHOUD 22	2400
47396	7590	12/17/2004	EXAMINER	
HITT GAINES, PC AGERE SYSTEMS INC. PO BOX 832570 RICHARDSON, TX 75083			CHEN, TSE W	
			ART UNIT	PAPER NUMBER
			2116	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/041,146	BERTHOUD, CHARLES W.	
	Examiner	Art Unit	
	Tse Chen	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01042002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on January 4, 2002 was filed before the mailing date of the first Office Action. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 7-8, 14-15, and 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Kolbet et al., US Patent 6308215, hereinafter Kolbet.

3. In re claim 1, Kolbet discloses a performance [speed] indication system for use with a Universal Serial Bus {USB} signal [col.2, ll.57-63], comprising:

- A rate discrimination subsystem [inherently, part of logic block b1 provides a determination of speed] configured to provide a determination of a data transfer rate of said USB signal corresponding to a full-speed operation [low speed] and a high-speed operation [col.8, l.56 – col.9, l.6; col.12, ll.7-40].
- A condition indication subsystem [inherently, part of logic block b1 provides the signal] coupled to said rate discrimination subsystem and configured to provide a signal [speed indicator signal SPD] indicating said data transfer rate [col.8, l.56 – col.9, l.6].

4. As to claims 7 and 21, Kolbet discloses, wherein said rate discrimination subsystem employs a control signal [D+, D-] associated with a USB signal [col.4, ll.22-55].

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5. In re claims 8 and 14, Kolbet taught each and every limitation of the claim as discussed above in reference to claims 1 and 7. Claims 1 and 7 are directed to the performance indication system implementing the method of claims 8 and 14. Kolbet taught the system as set forth in claims 1 and 7. Therefore, Kolbet also taught the method as set forth in claims 8 and 14.

6. In re claim 15, Kolbet discloses a computer system [fig.1], comprising each and every limitation of a performance indication system as discussed above in reference to claim 1. Kolbet further discloses the computer system comprising a central processing unit [computer unit] associated with a keyboard, a pointing device [mouse] and a monitor [virtual reality device] [col.3, ll.37-51].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbet as applied to claims 1, 8 and 15 above, and further in view of Heidmann et al., US Patent 4402271, hereinafter Heidmann.

9. Kolbet discloses each and every limitation of the claim as discussed above in reference to claims 1, 8 and 15. Kolbet did not disclose explicitly that the performance indication system is contained in the USB cable assembly.

10. Heidmann discloses a performance indication system [detection device] wherein at least a portion of the performance indication system is contained in a cable assembly [1] [col.4, ll.7-22; conductors are part of detection device].

11. It would have been obvious to one of ordinary skill in the art, having the teachings of Kolbet and Heidmann before him at the time the invention was made, to modify the performance indication system taught by Kolbet to include the teachings of Heidmann, in order to obtain the performance indication system wherein at least a portion of said performance indication system is contained in a USB cable assembly. One of ordinary skill in the art would have been motivated to make such a combination as it provides a way to package the detection and transmitting media in one unit [Heidmann: col.4, ll.7-22].

12. Claims 3, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbet as applied to claims 1, 8 and 15 above, and further in view of Wooten, US Patent 6542946.

13. Kolbet discloses each and every limitation of the claim as discussed above in reference to claims 1, 8 and 15. Kolbet did not disclose explicitly that the performance indication system is contained in a peripheral device.

14. Wooten discloses a performance indication system [hub 172] wherein at least a portion of said performance indication system is contained in a peripheral device [e.g., monitor 158] [col.6, ll.10-27].

15. It would have been obvious to one of ordinary skill in the art, having the teachings of Kolbet and Wooten before him at the time the invention was made, to modify the performance indication system taught by Kolbet to include the teachings of Wooten, in order to obtain the

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performance indication system wherein at least a portion of said performance indication system is contained in a peripheral device. One of ordinary skill in the art would have been motivated to make such a combination as it provides a way to conveniently package the performance indication system with the peripheral device as one unit [Heidmann: col. 6, ll.10-27].

16. Claims 4, 11, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbet as applied to claims 1, 8 and 15 above, and further in view of Fukunaga et al., US Patent 5469746, hereinafter Fukunaga.

17. Kolbet discloses each and every limitation of the claim as discussed above in reference to claims 1, 8 and 15. Kolbet did not disclose explicitly that the condition indication subsystem employs a visual display.

18. Fukunaga discloses a system wherein at least a portion of a condition indication subsystem [104] employs a visual display [140] [col.7, l.59 – col.8, l.19].

19. It would have been obvious to one of ordinary skill in the art, having the teachings of Kolbet and Fukunaga before him at the time the invention was made, to modify the performance indication system taught by Kolbet to include the visual display of Fukunaga, in order to obtain the performance indication system wherein at least a portion of said condition indication subsystem employs a visual display. One of ordinary skill in the art would have been motivated to make such a combination as it provides a way to output the operating status [Fukunaga: col.7, l.59 – col.8, l.19].

20. Claims 5, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbet as applied to claims 1, 8 and 15 above, and further in view of Davis et al., US Patent 5365577, hereinafter Davis.

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21. Kolbet discloses each and every limitation of the claim as discussed above in reference to claims 1, 8 and 15. Kolbet did not disclose explicitly that the condition indication subsystem employs an audio device.

22. Davis discloses a system wherein at least a portion of a condition indication subsystem [modem controller 346] employs an audible device [tone generator] [col.22, ll.1-28].

23. It would have been obvious to one of ordinary skill in the art, having the teachings of Kolbet and Davis before him at the time the invention was made, to modify the performance indication system taught by Kolbet to include the audible device of Davis, in order to obtain the performance indication system wherein at least a portion of said condition indication subsystem employs an audio device. One of ordinary skill in the art would have been motivated to make such a combination as it provides a way to output the operating status [Davis: col. 22, ll.1-28].

24. Claims 6, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbet as applied to claims 1, 8 and 15 above, and further in view of Kitagawa, US Publication 20030026183.

25. Kolbet discloses each and every limitation of the claim as discussed above in reference to claims 1, 8 and 15. Kolbet did not disclose explicitly that the determination of the data transfer rate is based on an outcome of a chirping process.

26. Kitagawa discloses a performance indication system wherein the determination of a data transfer rate [speed] is based on an outcome of a chirping process [0032-0033].

27. It would have been obvious to one of ordinary skill in the art, having the teachings of Kolbet and Kitagawa before him at the time the invention was made, to modify the performance indication system taught by Kolbet to include the teachings of Kitagawa, in order to obtain the

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performance indication system wherein said determination of said data transfer rate is based on an outcome of a chirping process. One of ordinary skill in the art would have been motivated to make such a combination as it provides a way to determine a data transfer rate for correct operation [Kitagawa: 0006-0007].

Conclusion

28. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The additionally cited U.S. patent documents describe various systems and methods associated with data rate detection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tse Chen whose telephone number is (571) 272-3672. The examiner can normally be reached on Monday - Friday 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tse Chen
December 9, 2004


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